

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

C. JACKSON HOOVER, et al.,

Plaintiffs,

v.

**STRATEGIC CAPITAL
PARTNERS, LLC, et al.,**

Defendants.

**CIVIL ACTION FILE NO.
1:21-cv-01299-SEG**

**DEFENDANT CHERRY BEKAERT LLP’S RESPONSE TO
PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY**

The Court correctly ruled on August 21, 2023 that Plaintiffs’ First amended Complaint failed to state a claim against Defendant Cherry Bekaert LLP (“Cherry Bekaert”).¹ (Dkt. 383). The Oconee tax court case cited by Plaintiffs in their March 8, 2024 Notice of Supplemental Authority does not add any credence to their baseless campaign to make a claim against Cherry Bekaert. To the contrary, Plaintiffs’ attempt to leverage the case by pointing to their conclusory allegations

¹ Plaintiffs seek leave to file a second amended complaint against “Cherry Bekaert f/k/a CoNexus.” Cherry Bekaert was not formerly known as CoNexus CPA Group, LLC (“CoNexus”). Cherry Bekaert and CoNexus remain separate entities, and Cherry Bekaert is not the successor-in-interest to CoNexus. Cherry Bekaert responds to Plaintiffs’ Notice of Supplemental Authority (Dkt. 419), submitted in support of Plaintiffs’ Motion for Leave to File Second Amended Complaint (Dkt. 390), as Cherry Bekaert, not as CoNexus or “Cherry Bekaert f/k/a CoNexus CPA Group, LLC,” a non-existent entity invented by Plaintiffs.

concerning accounting standards underscores the threadbare nature of their purported claim against Cherry Bekaert.

Although Plaintiffs refer to the “facts uncovered by the Tax Court” in the Oconee tax court case (Dkt. 419 at 7-8), the allegations against CoNexus, on which they seek to assert a claim against Cherry Bekaert, are what matter. As Cherry Bekaert explained in its October 16, 2023 Opposition to Plaintiffs’ Motion for Leave to File Second Amended Complaint (Dkt. 404), the actual allegations set forth in the proposed Second Amended Complaint are insufficient, as were the prior allegations. Plaintiffs have not set forth any allegations against CoNexus or Cherry Bekaert that are anywhere close to what the Court held were sufficient to state fraud-based claims and a civil conspiracy claim against Defendant Bennett Thrasher, LLC (Dkt. 404 at 3-4). The prior allegations against CoNexus were already held to be insufficient by the Court, and the new allegations in the proposed Second Amended Complaint against CoNexus do not suggest that CoNexus or Cherry Bekaert knew of any alleged underlying fraud, and many allegations are merely consistent with ordinary business activities.

In their notice of supplemental authority, Plaintiffs focus on the existence of “various accounting standards” as supporting their renewed claim against Cherry Bekaert (Dkt. 419 at 8). As explained before, however, the allegations relating to accounting regulations and standards, (Dkt. 390-2 ¶¶ 111-15), are conclusory and do

not suggest CoNexus or Cherry Bekaert knew of any alleged underlying fraud, let alone advised or actively worked to inflate appraisal values. If alleging the existence of accounting standards was enough to state a claim, then parties would always have a claim against an accounting firm. That is not the law. A party must allege more than the existence of accounting standards. Plaintiffs have not done so here.

Plaintiffs' proposed amendments are futile as respects Cherry Bekaert. The Oconee tax court case does not change that. Accordingly, the Court should deny Plaintiffs' Motion for Leave to File Second Amended Complaint (Dkt. 390).

Respectfully submitted, this 22nd day of March 2024.

s/ Andrew S. Koelz

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**Counsel for Defendant
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CERTIFICATE OF COMPLIANCE

In compliance with N.D. Ga. R. 7.1.D., I certify that the foregoing **DEFENDANT CHERRY BEKAERT LLP’S RESPONSE TO PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY** has been prepared in conformity with N.D. Ga. R. 5.1. The brief was prepared with Times New Roman (14-point) type, with margins of at least one (1) inch. The brief is proportionately spaced, and is no longer than 25 pages.

This 22nd day of March 2024.

s/ Andrew S. Koelz

Andrew S. Koelz

Georgia Bar No. 208399

CERTIFICATE OF SERVICE

I certify that I have this day electronically filed the foregoing **DEFENDANT CHERRY BEKAERT LLP'S RESPONSE TO PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY** with the Clerk of Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

This 22nd day of March 2024.

s/ Andrew S. Koelz

Andrew S. Koelz

Georgia Bar No. 208399